

J. Paul Gignac, State Bar No. 125676
Mischa N. Barteau, State Bar No. 274474
ARIAS OZZELLO & GIGNAC LLP
115 S. La Cumbre Lane, Suite 300
Santa Barbara, California 93105
Telephone: (805) 683-7400
Facsimile: (805) 683-7401
j.paul@aogllp.com
mbarteau@aogllp.com

J.A. Ted Baer, State Bar No. 135092
LAW OFFICE OF J.A. TED BAER
21 E. Canon Perdido Street, Suite 223
Santa Barbara, California 93101
Telephone: (805) 963-7177
Facsimile: (801) 730-2874
ted@tedbaerlaw.com

Attorneys for Plaintiff
Kelly Wilson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

KELLY WILSON, an individual,

Plaintiff,

vs.

THE WALT DISNEY COMPANY, a Delaware corporation; DISNEY ENTERPRISES, INC., a Delaware corporation; WALT DISNEY PICTURES, a California corporation; WALT DISNEY MOTION PICTURES GROUP, INC., a California corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. 3:14-cv-01441-VC

**DECLARATION OF KELLY WILSON
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Judge: Hon. Vince G. Chhabria
Date: April 9, 2015
Time: 10:00 a.m.
Ctrm: 4

DECLARATION OF KELLY WILSON

I, Kelly Wilson, hereby declare:

1. I make this declaration based on my personal knowledge. If called as a witness, I would testify truthfully and competently to the matters set forth herein.

2. I am the plaintiff in this action. I am over the age of eighteen and otherwise competent to testify as a witness.

3. I submit this declaration in support of Plaintiff's Motion for Partial Summary Judgment.

4. I created and developed the animated short film *The Snowman* between February 2008 and August 2010.

5. *The Snowman* was my original idea, and I worked primarily with Neil Wrischnik to create and develop *The Snowman*.

6. Throughout the development and production of *The Snowman*, I uploaded still images and video clips from *The Snowman* to my website kellywilsonfilms.com. I used my website as an online portfolio to show my work. My website has been publicly accessible since I created it in 2008.

7. I listed my website kellywilsonfilms.com on my resumes and cover letters that I submitted to potential employers, including Defendants, when applying for jobs.

8. After completing *The Snowman* in August 2010, I distributed copies of *The Snowman* to friends and family. I also submitted *The Snowman* to film festivals across the country.

9. *The Snowman* was accepted and was screened at the following eight film festivals: (1) Green Bay International Film Festival (screened 2/26/2011); (2) San Francisco International Film Festival (screened 4/29/2011, 5/1/2011, 5/2/2011 5/3/2011); (3) Animation Block Party (screened 7/30/2011); (4) Palo Alto International Film Festival (screened 10/1/2011); (5) Santa Barbara International Film Festival (screened 1/28/2012, 1/30/2012); (6) Film Streams Festival (screened 3/3/2012, 3/4/2012, 3/8/2012, 3/10/2012, 3/11/2012, 3/15/2012); (7) Claremont 5 Second Film Festival (screened 5/17/2012); and (8)

1 Prescott Film Festival (festival date 8/1/2012-8/8/2012, exact screening date(s) unknown).

2 10. Prior to attending screenings of *The Snowman* at the 2011 San Francisco
3 International Film Festival, I attended a “Bay Area Filmmakers Reception” on April 8,
4 2011. The reception was hosted by the San Francisco International Film Festival, and I was
5 invited because *The Snowman* was going to be screened at the film festival. At the
6 reception, I recall meeting Carlos Baena, who was one of the film makers, as well as one of
7 the producers of *Play by Play*. I recall having a brief conversation with them about the fact
8 that their film *Play by Play* was going to be screened with my film *The Snowman*. I also
9 recall that the filmmakers of *Play by Play* worked at Pixar.

10 11. *The Snowman* was screened at the San Francisco International Film Festival
11 with other short films in a series called “Do You See What I See?” I attended the
12 screenings held on May 1, 2011 and May 3, 2011.

13 12. The May 1, 2011 screening of the short film series “Do You See What I
14 See?” was held at the Sundance Kabuki Theater in San Francisco, and the screening was
15 open to the general public. There were many people from Pixar in attendance at that
16 screening. I recall this because there was an entire row of seats in the best row of the
17 theater with signs on the seats saying “Reserved for Pixar.” All of those seats were full
18 when the screening began.

19 13. All of the films in the series “Do You See What I See?” were shown at the
20 May 1, 2011 screening, including *The Snowman* and *Play by Play*.

21 14. Immediately after the films screened on May 1, 2011, some of the
22 filmmakers were invited to speak onstage about their respective films. Neil Wrischnik and
23 I spoke on stage about *The Snowman*. The *Play by Play* filmmakers were on stage at the
24 same time and spoke about their film.

25 15. I have a photograph of myself speaking on stage after the film screening with
26 Neil Wrischnik and the *Play by Play* filmmakers. The photograph was taken by Neil
27 Wrischnik’s mother, who was in the audience while we were speaking on stage. Attached
28 to my declaration as “Exhibit A” is a true and correct copy of that photograph taken on

1 May 1, 2011.

2 16. I also attended the May 3, 2011 screening of the short film series “Do You
3 See What I See?” This screening was a special screening for schoolchildren, also held at
4 the Sundance Kabuki Theater in San Francisco. Neil Wrischnik and I spoke on stage again
5 about *The Snowman* immediately following the screening. *Play by Play* filmmakers were
6 also on stage at the same time and spoke about their film.

7 17. To assist the Court in comparing my work *The Snowman* with the *Frozen*
8 teaser trailer, I reviewed my film *The Snowman* and the *Frozen* teaser trailer and created a
9 frame by frame comparison of the two films. Attached to my declaration as “Exhibit B” is
10 a true and correct copy of the frame comparison that I created. In creating the frame
11 comparisons shown in “Exhibit B,” I watched the films on YouTube at the following
12 locations: *Frozen* teaser trailer at <https://www.youtube.com/watch?v=S1x76DoACB8>; *The*
13 *Snowman* at <https://www.youtube.com/watch?v=PJ6c7RLV8ew>. I paused the films and
14 extracted still images from the films. I then inserted the still images side-by-side into a
15 Word document, as shown in “Exhibit B.” The images that appear in “Exhibit B” are taken
16 directly from the two films.

17
18 I declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct.

20 Executed this 5th day of March 2015, at Mill Valley, California.

21
22 

23 _____
24 Kelly Wilson
25
26
27
28

EXHIBIT A



EXHIBIT B

THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

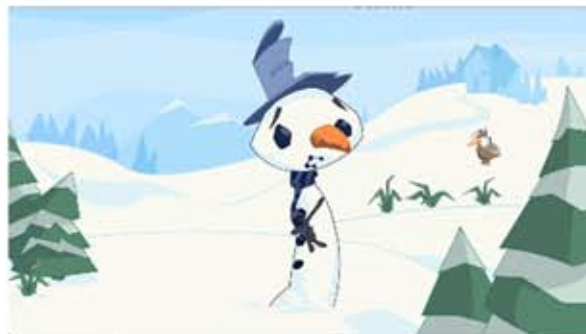
1



2



3



4



5



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

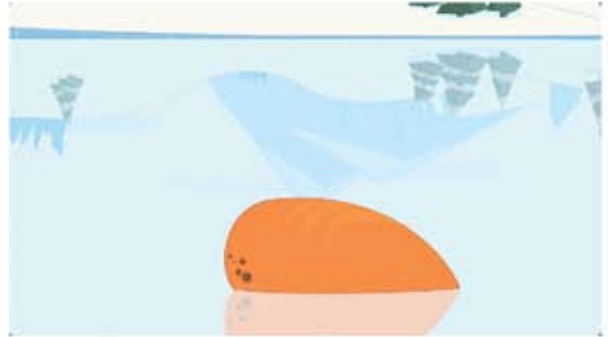
6



7



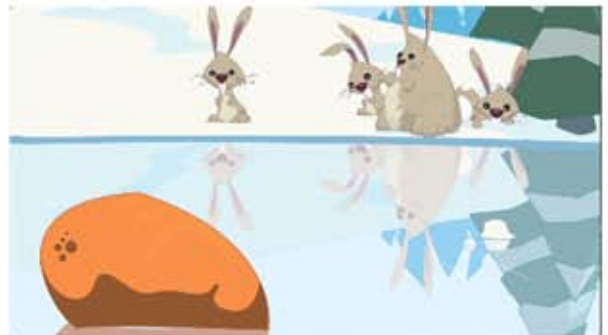
8



9



10



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

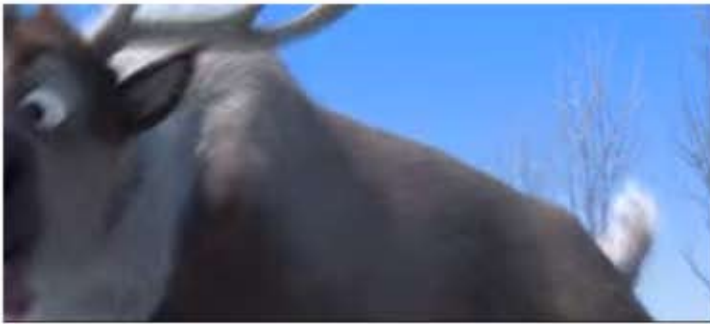
11



12



13



14



15



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

16



17



18



19



20



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

21



22



23



24



25



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

26



27



28



29



30



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

31



32



33



34



35



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

36



37



38



39



40



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

41



42



43



44



45



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

46



47



48



49



50



THE SNOWMAN vs. FROZEN TEASER TRAILER
Sequence Breakdown

51



52



53



54



55

